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the corporation. *Held*, that the suit is maintainable. *Converse v. Hamilton*, 32 Sup. Ct. 415.

For a discussion of the principles involved, see 23 HARV. L. REV. 37.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — LIABILITY OF RAILROAD RIGHT OF WAY TO LOCAL ASSESSMENT. — A city levied a special assessment for street improvements on adjacent property including the railroad right of way. *Held*, that this does not deprive the railroad of property without due process of law. *Gilsonite Construction Co. v. St. Louis, Iron Mountain & Southern Ry. Co.*, 144 S. W. 1086 (Mo.). See NOTES, p. 723.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — OWNER CHARGED WITH CONTRACTOR'S DEBTS IN DEFAULT OF REQUIRING BOND FOR THEIR PAYMENT. — A statute provided that every owner should take from a person contracting for the construction of his ditch or canal a bond for the payment of all debts for labor, materials, provisions, or goods of any kind, incurred in carrying on the work, or the owner should be liable for debts so contracted. The plaintiff sued an owner under this statute on an account for fodder, clothing, provisions, and other supplies furnished to a contractor. *Held*, that the statute is unconstitutional. *Bolln Co. v. North Platte Valley Irrigation Co.*, 121 Pac. 22 (Wyo.).

In general the due process clause renders unconstitutional any taking of property from one person to pay the debts of another. See *Camp v. Rogers*, 44 Conn. 291, 297; *Jones v. Great Southern Fireproof Hotel Co.*, 86 Fed. 370, 388. In some special relations, it may not be unreasonable under the police power to hold one sponsor for another's obligations. Thus liability can be imposed on initial carriers for damages caused by connecting carriers. *Atlantic Coast Line R. Co. v. Riverside Mills*, 219 U. S. 186, 31 Sup. Ct. 164. Landlords can be made responsible for the unpaid water rents of tenants. *City of East Grand Forks v. Luck*, 97 Minn. 373, 107 N. W. 393. Wherever sub-contractors are given a direct mechanic's lien, independent of the contractor, the owner is likewise charged with another's debt. But this is by reason of the equity binding his property to answer for labor or materials that have directly enriched it. *Davis v. Alvord*, 94 U. S. 545; *Foster v. Dohle*, 17 Neb. 631, 24 N. W. 208. See 25 HARV. L. REV. 274. Personal liability within the same limits has been upheld. *Hart v. Boston, etc. R. Co.*, 121 Mass. 510. But a statute similar to that in the principal case has been held unconstitutional, though confined to debts for which a lien could be given. *Gibbs v. Tally*, 133 Cal. 373, 65 Pac. 970. At least that result is unimpeachable where, as here, the benefit of the goods supplied accrued not directly to the property but to the contractor's ordinary business equipment. Cf. *McCormick v. Los Angeles City Water Co.*, 40 Cal. 185; *Perrault v. Shaw*, 69 N. H. 180.

CONTRACTS — SUITS BY THIRD PERSONS NOT PARTIES TO CONTRACT — ACTION BY PEDESTRIAN AGAINST STREET RAILWAY FOR BREACH OF ITS CONTRACT WITH CITY TO KEEP SIDEWALKS IN REPAIR. — A street railway company agreed to keep a sidewalk in repair as one of the terms upon which the city granted the use of a street. The sidewalk became out of repair, in consequence of which the plaintiff was injured. *Held*, that she can recover damages from the company. *Jenree v. Metropolitan Street Ry. Co.*, 121 Pac. 510 (Kan.).

Even in jurisdictions which permit a beneficiary to sue upon a contract, it is held that the contract must be primarily intended for his benefit. *New Orleans St. Joseph's Association v. Magnier*, 16 La. Ann. 338. But if the beneficiary has a legal or equitable claim against the promisee for the advantage which the promisor has agreed to confer, no such primary intent is necessary. *Lawrence v. Fox*, 20 N. Y. 268. A city owes no duty to its citizens to maintain

a given water pressure. *Van Horn v. City of Des Moines*, 63 Ia. 448, 19 N. W. 293; *Wright v. City Council of Augusta*, 78 Ga. 241. So the fact that a householder is incidentally benefited by a contract between a water company and the city is held insufficient to permit recovery for losses due to the company's failure to maintain the agreed pressure. *Mott v. Cherryvale Water & Mfg. Co.*, 48 Kan. 12, 28 Pac. 989; *Becker v. Keokuk Waterworks*, 79 Ia. 419, 44 N. W. 694. *Contra*, *Gorrell v. Greensboro Water Supply Co.*, 124 N. C. 328, 32 S. E. 720. Some recent cases regard maintenance of pressure as within the public duty of a water company. *Guardian Trust & Deposit Co. v. Fisher*, 200 U. S. 57, 26 Sup. Ct. 186; *Mugge v. Tampa Waterworks Co.*, 52 Fla. 371, 42 So. 81. But as repairing a sidewalk is obviously not within a street railway's public calling, and as there is no evidence of misfeasance, the decision in the principal case can be sustained only on a beneficiary theory. As the city owes a legal duty to each pedestrian to keep the highway in repair, the case properly falls into the class where intent to benefit the beneficiary is immaterial. See *City of Brooklyn v. Brooklyn City R. Co.*, 47 N. Y. 475, 485; *McMahon v. Second Avenue R. Co.*, 75 N. Y. 231, 237.

CORPORATIONS — CAPITAL, STOCK, AND DIVIDENDS — SUIT CONTESTING OWNERSHIP OF STOCK. — An intestate died in Maryland owning stock in a Washington corporation. The local administrator in Washington filed a bill against the corporation to have his name placed on the corporate books as the owner of this stock, and served the Maryland administrator by publication. *Held*, that jurisdiction over the foreign administrator has been acquired. *Gamble v. Dawson*, 120 Pac. 1060 (Wash.). See NOTES, p. 719.

CRIMINAL LAW — SENTENCE — POWER OF COURT TO SUSPEND ITS IMPOSITION OR ITS ENFORCEMENT. — A court postponed the sentence of a convicted prisoner and at a later term sentenced her to prison. *Held*, that she is legally imprisoned. *Gehrmann v. Osborne*, 82 Atl. 424 (N. J., Ct. Ch.).

A court provided in its sentence that execution of the same should be suspended during good behavior. The defendant was at liberty for a longer period thereafter than the term imposed by the sentence. *Held*, that the defendant can be made to serve out his term although the provision for suspension is void. *Daniel v. Persons*, 74 S. E. 260 (Ga.); *Fuller v. State*, 57 So. 806 (Miss.).

The question of the inherent power of a court to suspend the pronouncement of sentence or to stay its enforcement has produced a great variety of authorities. See note to *State v. Abbott*, 33 L. R. A. N. S. 112. The exercise of either by the court has been objected to as an encroachment on the pardoning power of the executive. *People v. Blackburn*, 6 Utah 347, 23 Pac. 759. I. A statute expressly authorizing the former has been held unconstitutional for that reason. *People v. Cummings*, 88 Mich. 249, 50 N. W. 310. Another case, however, supports such a statute on the ground that an indefinite postponement of judgment is not a pardon, as it does not blot out guilt. *People ex rel. Forsyth v. Court of Sessions*, 141 N. Y. 288, 36 N. E. 386. And some courts regard this power as inherent in the court regardless of statutes. *People ex rel. Forsyth v. Court of Sessions*, *supra*; *State v. Crook*, 115 N. C. 760, 20 S. E. 513. Courts not recognizing the power generally hold that an indefinite suspension deprives the court of jurisdiction to sentence later. *United States v. Wilson*, 46 Fed. 748; *People v. Allen*, 155 Ill. 61, 39 N. E. 568. II. The power to stay the execution of a sentence once imposed has been generally denied. See *State v. Abbott*, 87 S. C. 466, 469, 70 S. E. 6. But the power to enforce it after such a stay has been frequently upheld. *State v. Abbott*, *supra*; *Neal v. State*, 104 Ga. 509, 30 S. E. 858. *Contra*, *Re Webb*, 89 Wis. 354, 62 N. W. 177. The number of cases seems to indicate a strong feeling on the part of the trial judges that they have power to suspend both sentence and execution.